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09/720,082	04/18/2001	Bernard Kraeutler	Q 62381	6983

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EXAMINER

PUROL, DAVID M

ART UNIT	PAPER NUMBER
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3634

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 04192004

Application Number: 09/720,082
Filing Date: April 18, 2001
Appellant(s): KRAEUTLER, BERNARD

Jeffrey A. Schmidt
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 9, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows:

Issue 1

Whether claims 7-9 are unpatentable under §102(e) over the disclosure of US Patent 5,655,586 to Cattaneo (hereinafter Cattaneo).

Issue 2

Whether claims 5 and 6 are unpatentable under §103a over the teachings of Cattaneo.

(7) *Grouping of Claims*

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Appellant's brief includes a statement that claims 7-9 and 5,6 respectively, do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

- The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,655,586

Cattaneo

8-1997

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 8,9,7 stand rejected under 35 U.S.C. 102(e) as being clearly anticipated by Cattaneo. Cattaneo discloses a bracket including a face branch 1,3 having fixing holes, and a tab 4,7 having a hole 5'.

Claims 5,6 stand rejected under 35 U.S.C. 103 as being unpatentable over Cattaneo. While Cattaneo does not disclose the type of material from which the bracket is constructed from, it is a well settled issue that the selection of a known material based upon its suitability for the intended use would have been obvious to one of ordinary skill in the art.

(11) Response to Argument

The appellant states that in Cattaneo the flank 1 is only a cover for the main box and it is the box that supports the axle. There is no disclosure within the Cattaneo reference which substantiates this contention. The centrally located cylindrical fixing

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hole as disclosed and illustrated in figure 1 of Catteneo is structure which supports a bearing shaft of a rolling shutter inasmuch as this is the function per se of the support bracket.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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DMP
April 20, 2004

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